

**SUMMARY OF  
PILOT ELECTRIC SUPPLY AGREEMENT  
BETWEEN CAPE LIGHT COMPACT (“COMPACT”) AND  
MIRANT AMERICAS RETAIL ENERGY MARKETING, LP  
 (“MIRANT” or “SUPPLIER”)**

***KEY PROVISIONS***

- All customers in Barnstable County and Dukes County (Cape and Vineyard) on Default Service tariff as of date of contract (and new customers who move into member towns and who would otherwise be enrolled on Default Service) are eligible to participate. All eligible consumers will be sent a written notification of the program and have a 30 day period to choose to opt-out and remain on Default Service.
- Mirant/Compact 2002 price will be 4.898 cents/kWh to all participating consumers in 2002 and 4.798 cents/kWh in 2003 (see Exhibit A). Estimated savings for 2002 (using 2001 kWh sales as a base) are roughly \$2,000,000 (see Exhibit A-1).
- Supply will come from a variety of sources in New England Power Pool and Mirant will meet the Renewable Portfolio Standard at the start of service in May, although it is not required by the state until January 1, 2003. Mirant will meet the RPS obligation by making a payment to the Massachusetts Renewable Energy Trust Fund.
- No exit fees for participating customers leaving the Pilot. Any participating customer can leave the Mirant/Compact supply (but cannot return for a twelve month period).
- Green Power option available on voluntary basis. Consumers who choose this option (at higher “green option” prices) will sign a separate agreement with Mirant consistent with the terms of contract. This separate agreement may include an exit fee.
- Mirant pays Compact cost of obtaining regulatory and related approvals, cost of notification process and half of the cost of education program.
- Conditioned on DTE approval by March 25, 2002.
- Start up date for service is May 1, 2002. Contract runs through December 31, 2003, provided that 2003 NSTAR Default Service tariff is above contract price — if not, contract terminates December 31, 2002.
- Compact can terminate contract for breach after notice and opportunity to cure. Compact can terminate immediately if Mirant fails to arrange for All Requirements Power Supply. Either party can terminate if court or DTE invalidates contract in whole or in significant part.
- Compact will perform notification of consumers.
- Compact acts as agent and single point of contact with respect to agreement.
- Mirant abides by applicable residential consumer protection provisions.
- Mirant gives Compact and member towns broad indemnification against third party claims.

- Mirant provides \$5 million comprehensive general liability insurance, parent guarantee and collects extra mill/kWh for eight months (estimated to be roughly \$250,000) to be paid to Compact reserve fund to secure indemnification and performance.

### *Section by Section Summary*

ARTICLE 1: DEFINITIONS. Defines key terms. Establishes that consumers eligible to receive All Requirements Power Supply are those in all rate classes located in the twenty-one Compact member towns on the Cape and Vineyard who are on Default Service as of the date of the Agreement (March 2002) and those who relocate to those communities after the date and would otherwise be automatically enrolled as Default Service customers (collectively “Eligible Consumers”). Consumers temporarily switched to Default Service from Standard Offer (e.g. low income customers) are not included.

ARTICLE 2: RIGHTS GRANTED. Supplier is given the exclusive right to serve all eligible consumers, except those who opt-out. Establishes that it is Supplier’s exclusive obligation to procure All Requirements Power Supply and deliver it and to coordinate with Local Distribution Company (NSTAR). The Compact’s role is to act on behalf of member towns; Compact will seek an endorsement of the contract and commitment of municipal default load from members but the contract is not premised on any individual town actions. Supplier agrees to comply with all applicable law. Finally, agreement (save certain reimbursements due the Compact from Supplier such as \$15,000 of costs related to gaining regulatory approvals of the contract) is conditioned on obtaining certain regulatory (DTE) and other approvals which are set forth in Article 2.4; DTE approval must be obtained by March 25, 2002.

ARTICLE 3: CUSTOMER CHOICE; NOTIFICATION OF RIGHTS; ENROLLMENT; EDUCATION. Makes clear that all consumers have the right to opt out at any time without penalty, establishes role of Compact in sending opt-out notifications and otherwise sets forth requirements as well as customer education program (described in detail in Exhibit B to the Agreement). Supplier will reimburse Compact for up to \$50,000 of expenses for notification process. Compact and Supplier agree to split \$20,000 of expenses for education program. After DTE approval of the contract, Compact, Supplier and NSTAR will work together to determine enrollment procedures.

ARTICLE 4: TERM OF CONTRACT AND TERMINATION. Contract runs through December 31, 2003, provided that rates stated in this Agreement are lower than NSTAR’s calendar year 2003 Default Service tariff. If not, contract terminates on December 31, 2002. Start up date is May 1, 2002. Parties may extend term by one year subject to mutual agreement and DTE approval, again, provided that contract prices are lower than Default Service tariff rates. Compact may terminate for breach after written notice and an opportunity to cure; Compact can immediately terminate due to failure of Supplier to provide or arrange for All Requirements Power Supply. Either party can terminate if court or DTE invalidates contract in whole or in significant part. Upon termination, indemnifications survive; Supplier obligated to pay Compact up to \$90,000 for cost of obtaining substitute supplier if termination is due to Supplier’s failure to provide All Requirements Power Supply and measure of damages is difference between contract price and Default Service tariff. Mirant does not concede that

Compact can bring action on behalf of individual consumers; this issue is deferred until such time, if ever, that the situation actually arises.

ARTICLE 5: CONTINUING COVENANTS. Supplier agrees, for life of contract, to abide by management and operational standards, provide various forms of local customer service, respond to certain requests for information, continue to arrange for All Requirements Power Supply and to provide service on a non-discriminatory basis and in accordance with applicable law and regulations. Supplier also agrees to coordinate with the Compact so as to not impair Compact's energy efficiency and renewable energy programs and parties agree to work together in terms of general communications and public relations. Should Supplier ever bill consumers directly, it will provide access to bills for Compact information. Supplier agrees to cause its affiliates owning or operating Canal power plant to abide by all emissions limitations; Compact can terminate this agreement for failure (after six month cure period).

ARTICLE 6: ROLES OF THE COMPACT AND THE MEMBER MUNICIPALITIES. Makes clear that neither the Compact nor members have any liability or responsibility for supply or delivery of electricity and that Compact's role is to act on behalf of its members.

ARTICLE 7: PRICES AND SERVICES; BILLING. References price exhibit (A) and makes clear that Supplier is obligated to accept all eligible consumers and bears responsibility for metering (as between it and the Compact) or making appropriate arrangements with NSTAR. This Article also includes a subsection (7.4) reciting basic terms which pertain to individual accounts; a copy of Supplier's individual customer terms and conditions will be provided to Compact and filed with DTE. Either party may seek reformulation of the contract in the event of a material, adverse change in law or regulation; if the parties can't agree contract can be terminated.

ARTICLE 8: DEVELOPMENT OR OFFERING OF RENEWABLE ENERGY SOURCES. Supplier commits to comply with renewable portfolio standards in advance of January 1, 2003 requirement.

ARTICLE 9: SERVICE PROTECTIONS FOR RESIDENTIAL CUSTOMERS. Supplier agrees to abide by DTE residential consumer protection regulations and other applicable law.

ARTICLE 10: NON-DISCRIMINATION IN HIRING AND EMPLOYMENT. Supplier agrees to abide by all applicable non-discrimination laws.

ARTICLE 11: ANNUAL REPORT AND ACCESS TO INFORMATION. Supplier will prepare an annual report and provide it to Compact and post it on website. Supplier will include a copy of current DTE "Disclosure Label." Supplier agrees to maintain relevant books and records in accord with state and federal regulations and to provide access to these and other public records to Compact.

ARTICLE 12: RESOLUTION OF DISPUTES; CHOICE OF LAW. Massachusetts law governs disputes. The parties will first try to resolve any disputes informally; the venue for any litigation is

Suffolk County state or federal court. The party which prevails on its claims may recover its fees and costs up to an aggregate maximum of \$250,000.

ARTICLE 13: INDEMNIFICATION. Supplier agrees to broadly indemnify the Compact and member towns from claims resulting from any breach of the Agreement (except where caused by the Compact or NSTAR) and its acts or omissions taken in connection with the contract. The indemnification survives termination of the contract for three years (equal to the statute of limitations for tort actions).

ARTICLE 14: REPRESENTATIONS AND WARRANTIES. Each party makes certain material representations about its legal status, authorization to enter into agreement and other usual and customary matters.

ARTICLE 15: INSURANCE AND OTHER FINANCIAL SURETIES AND GUARANTEES. In order to support its indemnification of Compact and to otherwise protect Compact and its members, Supplier agrees to 1) procure comprehensive general liability insurance in the amount of \$5 million combined single limit and \$5 million excess liability, with Compact and members as additional insureds; 2) provide a parent guarantee in an amount equal to savings from lesser of twelve months or remaining term of the contract; and 3) collect one mill/kWh sold for first eight months of service for a reserve fund that Compact can use to cover claims and costs (this fund is estimated to be worth \$250,000 when fully funded). At end of contract, remaining funds will be returned to consumers or used for other public purposes by Compact as may be allowed by law. If Supplier's parent's debt rating is downgraded, it will substitute a letter of credit for parent guarantee.

ARTICLE 16: CONFIDENTIALITY. Parties agree to keep certain proprietary financial and other information confidential, consistent with law and establish a procedure to cooperate in the event of requested disclosures of information which is claimed to be confidential.

ARTICLE 17: MISCELLANEOUS. This Article contains a number of customary provisions addressing, among other things, assignment, direct marketing, advertising limitations and cooperation.

EXHIBIT A: Contains detailed price schedules and expanded eligibility requirements. Any customer who opts-out may not return to Pilot for twelve months. There are no exit fees for System Supply. Additionally, there will be a voluntary Renewable Energy Supply option. Price schedules and comparison to NSTAR rates are included.

EXHIBIT B: Details Education Plan.

EXHIBIT C: Insurance requirements for Supplier's policy.

## EXHIBIT A

### PRICES AND TERMS

#### **Pricing Schedule Pilot Project for Default Service Customers**

##### System Supply Service

\*\*\*\*\*Residential\*\*\*\*\* \*\*\*\*\*Commercial/Industrial\*\*\*\*\*  
R-1, R-2, R-3, R-4, R-5 G-1 G-2, G-3 G-4, G-5, G-6, G-7 S1, S2

### **2002**

#### **May 1 -- June 30**

NStar (cents/kWh)	6.289	6.468	6.410	6.468	6.468
MIRANT	4.898 cents per kilowatt hour for all rate classes				

#### **July 1 -- December 31**

Nstar (cents/kWh)	5.520	5.552	5.792	5.520	5.552
MIRANT	4.898* cents per kilowatt hour for all rate classes				

### **2003**

#### **January 1 -- December 31**

NStar	prices to be set
MIRANT	4.798* cents per kilowatt hour for all rate classes

*\* The price of 4.898 shall be payable for the first 8 months of service regardless of the date on which service begins. In the 9th month of service, the price shall change to 4.798. The Parties understand that if service does not begin on May 1, 2002, the price stated above for January 1, 2003 will be 4.898 (not 4.798) and will remain 4.898 through the 8th month of service.*



## EXHIBIT A-1

### CAPE LIGHT COMPACT

Projected Savings For Default Service Customers By Town

<u>CAPE TOWNS</u>	<u>Projected Savings 2002 (May 1 through December 31)*</u>	
Barnstable	\$	477,307
Bourne		127,285
Brewster		68,060
Chatham		60,169
Dennis		125,733
Eastham		44,632
Falmouth		219,607
Harwich		89,136
Mashpee		142,240
Orleans		80,759
Provincetown		55,532
Sandwich		114,227
Truro		16,682
Wellfleet		24,430
Yarmouth		162,910
 <u>MARTHA'S VINEYARD</u>		
Aquinnah	\$	3,160
Chilmark		10,530
Edgartown		62,946
Oak Bluffs		40,817
Tisbury		31,803
West Tisbury		20,204
 <b>TOTAL</b>	 \$	 <b>1,978,169</b>

\*NOTE: Savings for 2003 have not yet been calculated because the 2003 Default Price has not yet been set by NSTAR Electric.